

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 10

Filed by: Trial Section Merits Panel  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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RONALD P. PEDEMONTE,

Junior Party,  
(Application 09/120,009),

v.

URS LEHMANN, ROLF DIETZ,  
HANS REICHERT and ATHANASSIOS TZIKAS,

Senior Party  
(Patent 5,849,887).

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Patent Interference No. 104,480

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Before: McKELVEY, Senior Administrative Patent Judge, and  
SCHAFFER and LEE, Administrative Patent Judges.

PER CURIAM.

**JUDGMENT PURSUANT TO 37 CFR § 1.617**

**A. Discussion**

The interference was declared on 7 January 2000. On the  
same day, Pedemonte was ordered to show cause (Paper 2) why  
summary judgment should not be entered against it. 37 CFR

§ 1.617. Pedemonte has not timely filed a response to the order to show cause.

Moreover, on 14 February 2000, Yolunda Townes (a paralegal assigned to the Trial Section) telephoned counsel for Pedemonte, who indicated that Pedemonte would not be filing a response to the order to show cause.

Accordingly, entry of summary judgment is appropriate.

**B. Order**

Upon consideration of the record, and for the reasons given, it is

ORDERED that summary judgment under 37 CFR § 1.617 should be entered against junior party Ronald P. Pedemonte.

FURTHER ORDERED that judgment on priority as to Count 1 (Paper 1, page 45), the sole count in the interference, is awarded against junior party Ronald P. Pedemonte.

FURTHER ORDERED that judgment on priority as to Count 1 is awarded in favor of senior party Urs Lehmann, Rolf Dietz, Hans Reichert and Athanassios Tzikas.

FURTHER ORDERED that, on the record before the Board of Patent Appeals and Interferences, senior party Urs Lehmann, Rolf Dietz, Hans Reichert and Athanassios Tzikas is entitled to a patent containing claims 1-15 (corresponding to Count 1)

of U.S. Patent 5,849,887, granted 15 December 1998, based on application 09/050,280, filed 30 March 1998.

FURTHER ORDERED that junior party Ronald P. Pedemonte is not entitled to a patent containing claims 19 and 21-26 (corresponding to Count 1) of application 09/120,009, filed 21 July 1998.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

_____	)	
FRED E. McKELVEY, Senior	)	
Administrative Patent Judge	)	
	)	
	)	
_____	)	
RICHARD E. SCHAFER	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
_____	)	
JAMESON LEE	)	
Administrative Patent Judge	)	

104,480

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